

House File 403 - Introduced

HOUSE FILE 403

BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HSB 67)

A BILL FOR

- 1 An Act requiring a person convicted of an aggravated
- 2 misdemeanor to submit a DNA sample and providing for the
- 3 reimbursement of costs.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 81.2, subsection 1, Code 2011, is amended
2 to read as follows:

3 1. A person who receives a deferred judgment for a
4 felony, aggravated misdemeanor, or against whom a judgment or
5 conviction for a felony or aggravated misdemeanor has been
6 entered shall be required to submit a DNA sample for DNA
7 profiling pursuant to section 81.4.

8 Sec. 2. Section 81.4, subsection 2, Code 2011, is amended
9 to read as follows:

10 2. A supervising agency having control, custody, or
11 jurisdiction over a person shall collect a DNA sample from a
12 person required to submit a DNA sample. The supervising agency
13 shall collect a DNA sample, upon admittance to the pertinent
14 institution, jail, or facility, of the person required to
15 submit a DNA sample or at a determined date and time set by
16 the supervising agency. If a person required to submit a DNA
17 sample is confined at the time a DNA sample is required, the
18 person shall submit a DNA sample as soon as practicable. If a
19 person required to submit a DNA sample is not confined after
20 the person is required to submit a DNA sample, the supervising
21 agency shall determine the date and time to collect the DNA
22 sample.

23 Sec. 3. Section 81.10, subsection 1, Code 2011, is amended
24 to read as follows:

25 1. A defendant who has been convicted of a felony or
26 aggravated misdemeanor and who has not been required to submit
27 a DNA sample for DNA profiling may make a motion to the court
28 for an order to require that DNA analysis be performed on
29 evidence collected in the case for which the person stands
30 convicted.

31 Sec. 4. Section 910.1, subsection 4, Code 2011, is amended
32 to read as follows:

33 4. "*Restitution*" means payment of pecuniary damages to
34 a victim in an amount and in the manner provided by the
35 offender's plan of restitution. "*Restitution*" also includes

1 fines, penalties, and surcharges, the contribution of funds to
2 a local anticrime organization which provided assistance to law
3 enforcement in an offender's case, the payment of crime victim
4 compensation program reimbursements, payment of restitution
5 to public agencies pursuant to section 321J.2, subsection
6 13, paragraph "b", court costs including correctional fees
7 approved pursuant to section 356.7, reimbursement of costs to
8 an agency performing DNA profiling pursuant to chapter 81,
9 court-appointed attorney fees ordered pursuant to section
10 815.9, including the expense of a public defender, and the
11 performance of a public service by an offender in an amount set
12 by the court when the offender cannot reasonably pay all or
13 part of the court costs including correctional fees approved
14 pursuant to section 356.7, or court-appointed attorney fees
15 ordered pursuant to section 815.9, including the expense of a
16 public defender.

17 Sec. 5. Section 910.2, Code 2011, is amended to read as
18 follows:

19 **910.2 Restitution or community service to be ordered by**
20 **sentencing court.**

21 1. In all criminal cases in which there is a plea of guilty,
22 verdict of guilty, or special verdict upon which a judgment
23 of conviction is rendered, the sentencing court shall order
24 that restitution be made by each offender to the victims of
25 the offender's criminal activities, to the clerk of court for
26 fines, penalties, surcharges, and, to the extent that the
27 offender is reasonably able to pay, for crime victim assistance
28 reimbursement, restitution to public agencies pursuant to
29 section 321J.2, subsection 13, paragraph "b", court costs
30 including correctional fees approved pursuant to section 356.7,
31 reimbursement of costs to an agency performing DNA profiling
32 pursuant to chapter 81, court-appointed attorney fees ordered
33 pursuant to section 815.9, including the expense of a public
34 defender, when applicable, contribution to a local anticrime
35 organization, or restitution to the medical assistance

1 program pursuant to chapter 249A for expenditures paid on
2 behalf of the victim resulting from the offender's criminal
3 activities. However, victims shall be paid in full before
4 fines, penalties, and surcharges, crime victim compensation
5 program reimbursement, public agencies, court costs including
6 correctional fees approved pursuant to section 356.7,
7 reimbursement of costs to an agency performing DNA profiling
8 pursuant to chapter 81, court-appointed attorney fees ordered
9 pursuant to section 815.9, including the expenses of a public
10 defender, contributions to a local anticrime organization, or
11 the medical assistance program are paid. In structuring a plan
12 of restitution, the court shall provide for payments in the
13 following order of priority: victim, fines, penalties, and
14 surcharges, crime victim compensation program reimbursement,
15 public agencies, court costs including correctional fees
16 approved pursuant to section 356.7, reimbursement of costs to
17 an agency performing DNA profiling pursuant to chapter 81,
18 court-appointed attorney fees ordered pursuant to section
19 815.9, including the expense of a public defender, contribution
20 to a local anticrime organization, and the medical assistance
21 program.

22 2. When the offender is not reasonably able to pay all or a
23 part of the crime victim compensation program reimbursement,
24 public agency restitution, court costs including correctional
25 fees approved pursuant to section 356.7, reimbursement of costs
26 to an agency performing DNA profiling pursuant to chapter 81,
27 court-appointed attorney fees ordered pursuant to section
28 815.9, including the expense of a public defender, contribution
29 to a local anticrime organization, or medical assistance
30 program restitution, the court may require the offender
31 in lieu of that portion of the crime victim compensation
32 program reimbursement, public agency restitution, court costs
33 including correctional fees approved pursuant to section 356.7,
34 reimbursement of costs to an agency performing DNA profiling
35 pursuant to chapter 81, court-appointed attorney fees ordered

1 pursuant to section 815.9, including the expense of a public
2 defender, contribution to a local anticrime organization, or
3 medical assistance program restitution for which the offender
4 is not reasonably able to pay, to perform a needed public
5 service for a governmental agency or for a private nonprofit
6 agency which provides a service to the youth, elderly, or poor
7 of the community. When community service is ordered, the court
8 shall set a specific number of hours of service to be performed
9 by the offender which, for payment of court-appointed attorney
10 fees ordered pursuant to section 815.9, including the expenses
11 of a public defender, shall be approximately equivalent in
12 value to those costs. The judicial district department of
13 correctional services shall provide for the assignment of the
14 offender to a public agency or private nonprofit agency to
15 perform the required service.

16 Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection
17 3, shall not apply to this Act.

18 EXPLANATION

19 This bill expands the number of persons required to submit a
20 DNA sample in a criminal proceeding.

21 The bill requires a person convicted of or who receives
22 a deferred judgment for an offense that is classified as
23 an aggravated misdemeanor to submit a DNA sample for DNA
24 profiling.

25 Current law provides that a person who is convicted of or
26 who receives a deferred judgment for an offense classified as a
27 felony shall submit a DNA sample for DNA profiling.

28 The bill provides that upon admittance to a county jail,
29 the county sheriff shall collect a DNA sample from a person
30 convicted of an aggravated misdemeanor.

31 The bill requires any person required to submit a DNA sample
32 for DNA profiling under Code chapter 81 to reimburse the agency
33 performing the DNA profiling for performing such DNA profiling.

34 The bill may include a state mandate as defined in Code
35 section 25B.3. The bill makes inapplicable Code section 25B.2,

1 subsection 3, which would relieve a political subdivision from
2 complying with a state mandate if funding for the cost of
3 the state mandate is not provided or specified. Therefore,
4 political subdivisions are required to comply with any state
5 mandate included in the bill.